

## REMARKS

In the July 1, 2005 Office Action, the Examiner noted that claims 22-42 were pending in the application; rejected claims 22 and 36 under 35 USC § 102(b); and rejected claims 23-31, 33-35, 37, 38 and 40-42 under 35 USC § 103(a). Although the Office Action Summary indicated that claims 32 and 39 were rejected, the Examiner's Detailed Office Action did not indicate any basis for rejecting claims 32 and 39.

In rejecting the claims, U.S. Patents 6,169,981 to Werbos and 6,336,109 to Howard (References A and C, respectively, in the November 16, 2004 Office Action), and articles by Neuneier and Gutjahr (References AQ and AR, respectively, in the Information Disclosure Statement filed March 21, 2001) were cited. Claims 22-42 remain in the case. The Examiner's rejections are traversed below.

First the undersigned wishes to thank the Examiner for the productive Examiner Interview held November 10, 2005. As discussed at the Examiner Interview, neither Neuneier nor Gutjahr disclose any **setting** of risk and in particular do not disclose "using ... [a] variable parameter to set a risk which the resulting sequence of states has with respect to a prescribed state of the system" (claim 22, last two lines) or the similar limitation on the last two lines of claim 36.

Instead of disclosing any way "to set a risk" (claim 22, line 8) Neuneier on page 941 describes using risk as an input to adjust portfolios in accordance with the risk that is input. As discussed in the paragraph spanning pages 7 and 8 of the Amendment filed via certificate of mail on February 16, 2005 and again on March 17, 2005, Section 4 ("Conclusion and Future Work") of Neuneier acknowledged that how to calculate the risk was not disclosed therein.

On the other hand, as indicated by the title, Gutjahr is directed to "Risk Estimation" not "setting a risk" (claim 36, line 6). The "risk" that is estimated by Gutjahr is the likelihood of failure of a program based on data collected from "operations of the program" (Gutjahr, page 183, second bulleted paragraph, line 2). There is no suggestion in Gutjahr (including in the calculations described on pages 186-188) of setting a risk for a "resulting sequence of states ... with respect to a prescribed state" (claims 22 and 36, last two lines). The only "state" that follows from the estimation is failure of the program and there is no suggestion in Gutjahr of how the calculations disclosed therein could be modified to be applied to "determining a sequence of actions, whereby a sequence of states resulting from the sequence of actions is optimized with regard to a prescribed optimization function ... [which] includes a variable parameter for setting a risk" (claim 36 lines 4-6).

For the above reasons, it is submitted that claims 22 and 36 patentably distinguish over both Neuneier and Gutjahr. Furthermore, it is submitted that Werbos and Howard contain no suggestion of how to modify Neuneier or Gutjahr to meet the limitations recited in claims 22 and 36. Therefore, it is submitted that claims 23-35 and 37-42 which depend from claims 22 and 36, respectively, patentably distinguish over all of the applied art that has been used to reject the claims.

Claim 22 has been amended to correct a typographical error. The recitation of "the sequence of states" (claim 22, line 6), as amended refers back to the recitation of "a sequence of states" at the end of line 4. It is submitted that this change should not require any further search and therefore, entry of this Amendment is respectfully requested.

### **Summary**

It is submitted that the references cited by the Examiner, taken individually or in combination, do not teach or suggest the features of the present claimed invention. Thus, it is submitted that claims 22-42 are in a condition suitable for allowance. Entry of the Amendment, reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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